

## 19.707

not met, whether there is any indication of a lack of a good faith effort to comply with the subcontracting plan.

[48 FR 42240, Sept. 19, 1983, as amended at 54 FR 30710, July 21, 1989; 60 FR 48263, Sept. 18, 1995; 63 FR 34067, June 22, 1998; 63 FR 70272, Dec. 18, 1998; 65 FR 60545, Oct. 11, 2000; 66 FR 53493, Oct. 22, 2001]

### 19.707 The Small Business Administration's role in carrying out the program.

(a) Under the program, the SBA may—

(1) Assist both Government agencies and contractors in carrying out their responsibilities with regard to subcontracting plans;

(2) Review (within 5 working days) any solicitation that meets the dollar threshold in 19.702(a)(1) or (2) before the solicitation is issued;

(3) Review (within 5 working days) before execution any negotiated contractual document requiring a subcontracting plan, including the plan itself, and submit recommendations to the contracting officer, which shall be advisory in nature; and

(4) Evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or, in the case of contractors having multiple contracts, on an aggregate basis.

(b) The SBA is not authorized to (1) prescribe the extent to which any contractor or subcontractor shall subcontract, (2) specify concerns to which subcontracts will be awarded, or (3) exercise any authority regarding the administration of individual prime contracts or subcontracts.

[48 FR 42240, Sept. 19, 1983, as amended at 51 FR 2664, Jan. 17, 1986]

### 19.708 Contract clauses.

(a) Insert the clause at 52.219-8, Utilization of Small Business Concerns, in solicitations and contracts when the contract amount is expected to exceed the simplified acquisition threshold unless—

(1) A personal services contract is contemplated (see 37.104); or

(2) The contract, together with all of its subcontracts, will be performed entirely outside of the United States and its outlying areas.

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(b)(1) Insert the clause at 52.219-9, Small Business Subcontracting Plan, in solicitations and contracts that offer subcontracting possibilities, are expected to exceed \$650,000 (\$1.5 million for construction of any public facility), and are required to include the clause at 52.219-8, Utilization of Small Business Concerns, unless the acquisition is set aside or is to be accomplished under the 8(a) program. When—

(i) Contracting by sealed bidding rather than by negotiation, the contracting officer shall use the clause with its Alternate I.

(ii) Contracting by negotiation, and subcontracting plans are required with initial proposals as provided for in 19.705-2(d), the contracting officer shall use the clause with its Alternate II.

(iii) The contract action will not be reported in the Federal Procurement Data System pursuant to 4.606(c)(5), the contracting officer shall use the clause with its Alternate III.

(2) Insert the clause at 52.219-16, Liquidated Damages—Subcontracting Plan, in all solicitations and contracts containing the clause at 52.219-9, Small Business Subcontracting Plan, or the clause with its *Alternate I, II, or III*.

(c)(1) The contracting officer may, when contracting by negotiation, insert in solicitations and contracts a clause substantially the same as the clause at 52.219-10, Incentive Subcontracting Program, when a subcontracting plan is required (see 19.702), and inclusion of a monetary incentive is, in the judgment of the contracting officer, necessary to increase subcontracting opportunities for small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, and women-owned small business concerns, and is commensurate with the efficient and economical performance of the contract; unless the conditions in paragraph (c)(3) of this section are applicable. The contracting officer may vary the terms of the clause as specified in paragraph (c)(2) of this section.

(2) Various approaches may be used in the development of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, and women-